

ISSUE

Does an organization that conducts mediation of international environmental disputes, under the circumstances described below, qualify for exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code?

FACTS

The organization, which otherwise qualifies for exemption under section 501(c)(3) of the Code, was formed for the purposes of engaging in legal research concerning various means of adjusting and resolving international environmental disputes, and arranging for and participating in the resolution of such disputes through the use of mediation. An international environmental dispute might arise, for example, in a situation where undesirable environmental conditions in one country are caused by industrial emissions originating in a neighboring country. Such disputes cannot generally be dealt with satisfactorily under the laws of any one country or under existing international law.

The organization conducts research to ascertain the potential for mediation to resolve certain international environmental disputes. Their research includes the identification of the issues under dispute, the assessment of the willingness of the parties to submit the dispute to mediation, and the making of an offer to conduct the mediation using its own staff of mediators and technical experts or to seek mediators acceptable to both parties.

The results of the organization's research and mediation activities are made known to the public by means of lectures and published articles and interviews. The organization's primary sources of income are grants from foundations and U.S. government agencies. The organization also receives fees for its mediation services from the parties involved, but these fees are set at or below cost.

LAW AND ANALYSIS

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated exclusively for charitable purposes.

Section 1.501(c)(3)-1(a) of the Income Tax Regulations provides that an organization cannot be exempt under section 501(c)(3) of the Code unless it meets both an organizational and operational test. That is, the organization must be both organized and operated exclusively for charitable purposes.

In determining whether an organization meets the operational test, the issue is whether the particular activity undertaken by

the organization is appropriately in furtherance of the organization's exempt purpose, not whether that particular activity in and of itself would be considered charitable. Moreover, the fact that the activity reflects a particular viewpoint or opinion on a controversial issue does not preclude the organization from qualifying for exemption under section 501(c)(3) of the Code. See section 1.501(c)(3)-1(d)(2) of the regulations. Two organizations having the same charitable purpose may both be recognized as exempt even though their viewpoints on the subject may differ, and they may be undertaking differing, even conflicting, means to accomplish that charitable objective. See Restatement (Second) of Trusts, section 374, comment 1 (1959).

The law of charity provides no basis for weighing or evaluating the objective merits of specific activities carried on in furtherance of a charitable purpose, if those activities are reasonably related to the accomplishment of the charitable purpose, and are not illegal or contrary to public policy.

Therefore, in making the determination of whether an organization's activities are consistent with exemption under section 501(c)(3) of the Code, the Service will rely on a three-part test. The organization's activities will be considered permissible under section 501(c)(3) if:

- (1) The purpose of the organization is charitable;
- (2) the activities are not illegal, contrary to a clearly defined and established public policy, or in conflict with express statutory restrictions; and
- (3) the activities are in furtherance of the organization's exempt purpose and are reasonably related to the accomplishment of that purpose.

See Rev. Rul. 80-278, page 8, this Bulletin.

It is generally recognized that efforts to preserve and protect the natural environment for the benefit of the public constitute a charitable purpose within the meaning of section 1.501(c)(3)-1(d)(2) of the regulations. The promotion of conservation and protection of natural resources has been recognized by Congress as serving a broad public benefit. See, e.g., the National Environmental Policy Act of 1969, 42 U.S.C. section 4321 (1976). See also Rev. Rul. 76-204, 1976-1 C.B. 152, and the authorities cited therein. Thus, the organization's overall purpose is charitable.

In addition, the organization's program of environmental mediation clearly is not illegal, contrary to a clearly defined and established public policy, or violative of express statutory limitations. Further, it is a form of private action that is clearly desirable in terms of the implementation of the existing public policy regarding preservation and protection of the environment. See *Alyeska Pipeline Service Co. v. Wilderness*

Society, 421 U.S. 240, 271 (1975). Thus, the organization's program of arranging for and participating in environmental mediation on the international level is an appropriate means of implementing environmental policy and is reasonably related to the accomplishment of the charitable purpose for which the organization was formed.

HOLDING

An organization that conducts mediation of international environmental disputes, under the circumstances described above, qualifies for exemption from federal income tax under section 501(c)(3) of the Code.

APPLICATION INSTRUCTIONS

Even though an organization considers itself within the scope of this revenue ruling, it must file an application on Form 1023, Application for Recognition of Exemption, in order to be recognized by the Service as exempt under section 501(c)(3) of the Code. See sections 1.501(a)-1 and 1.508-1(a) of the regulations.

In accordance with the instructions to Form 1023, the application should be filed with the District Director of Internal Revenue for the key district indicated therein.